

PUBLIC COMMENT SUMMARY
Annuity Options Rule 9-7

1. Who made public comment:

George Hopkins, Gail Bolden, Mike Ray, various ATRS Trustees, various unidentified ATRS members.

RECEIVED

2. Who received the public comment:

George Hopkins, Gail Bolden

AUG 09 2011

BUREAU OF
LEGISLATIVE RESEARCH

3. What was the public comment:

The concern was that the ATRS Board was given authority to make changes in option beneficiaries which expanded the options available for retirees marrying after retirement. Concern was expressed that members who retired before the effective date and who chose the only available options should be able to elect the same options as a retiree after the effective date of the rule.

4. What response was given to the public comment:

That was a valid point and historically, ATRS has given a window of opportunity for such benefits and it is appropriate for retirees who were given the single option to change to the second option available to retirees.

Summary of Proposed Rule Changes for Arkansas Teacher Retirement System

Annuity Option (Rule 9-7)

Substantive Changes

This rule change is necessary to comply with Act 137 of 2011. This Rule covers the member's option for receiving retirement benefits upon retirement.

Non-substantive Changes

None

ANNUITY OPTIONS AND DISPOSITION OF RESIDUE AFTER RETIREMENT

A.C.A. §§ 24-7-701, § 24-7-706, and § 24-7-709

DEFINITIONS

1. **Annuity Options** - The member's election at retirement of the annuity that shall be paid throughout the retiree's life in accordance with A.C.A. § 24-7-706.
2. **Option Beneficiary** - A person(s) nominated by the retiree by written designation duly executed and filed with ATRS at the time of retirement who, if eligible, will receive annuity payments under the annuity option chosen by the retiree after the retiree's death.
3. **Marriage Dissolution** - A final decree of divorce, separate maintenance, or annulment duly executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder.
4. **Person** - An individual, corporation, partnership, or other legal entity.
5. **Residue** - The member's accumulated contributions, including regular interest standing in the member's credit at the time of his/her retirement.
6. **Residue Beneficiary** - A person(s) nominated by the member/retiree to receive the residue, if any, at the termination of any option annuities payable on account of the retiree's death under A.C.A. § 24-7-709.

RULES

Before the date the first payment of an annuity becomes due, a member retiring on age and service or disability may elect to receive an annuity payable as provided in one of the following (Disability retirement option rights are modified as set forth in policy 9-4):

1. **Option 1:** A straight life annuity payable monthly for the life of the retiree. Upon the retiree's death, if the retiree has not received payments equal to the residue amount, the residue remaining, if any, shall be paid to the residue beneficiary. If no residue beneficiaries survive the retiree, the residue will be paid to the retiree's estate.

2. Effect of Option 1 Retiree's Death within the First Year of Retirement

If an Option 1 retiree dies within one year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A (100% survivor annuity) at that time.

The election shall become effective the first day of the month following receipt of the election form by ATRS. If the spouse elects Option A, the residue, if any, will not be paid until the Option A beneficiary's death.

3. Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement

In order to be nominated as an Option A or B beneficiary, the person must be one of the following:

- A. The retiree's spouse (if the retiree has been married to the spouse for at least one (1) year prior to the first annuity payment being paid to the retiree);
- B. A dependent child (regardless of age) who has been ruled physically or mentally incapacitated by a court of competent jurisdiction.

4. Eligibility of a Spouse to Become an Option A or Option B Beneficiary after a Member's Retirement.

If a member was married to his or her spouse for less than one (1) year upon his or her effective retirement date or the member marries after his or her effective retirement date, then the member may elect to cover the spouse after being married for one (1) year. Upon meeting the one (1) year marriage requirement, the member shall have six (6) months to file an election to cover his or her spouse under either Option A or Option B. The written election must be filed on a form approved by ATRS.

5. Limited Election Window for a Pre-July 1, 2011, Retiree to Modify His or Her Option Designation when Marrying after Retirement.

If a retiree married after retirement and designated his or her spouse as an Option B beneficiary, then the retiree may modify that beneficiary election from an Option B beneficiary election to an Option A beneficiary election, if the election is made on an ATRS form and is submitted to ATRS on or before June 30, 2012. If the retiree submits a form to modify the election to an Option A benefit, the election becomes effective on the first day of the month following receipt of the form by ATRS. The Option A benefit shall be calculated as if the retiree made the Option A election on the same date the

Option B election was made; however, the additional reduction in benefits shall only apply after the effective date of the Option A election.

56. Residue Paid Upon Death of Option Annuitant

If after a retiree dies, an option annuity becomes payable, but the option beneficiary dies prior to the retiree and the option beneficiary receiving annuity payments equal to the residue amount, the residue, if any, shall be paid to member's residue beneficiary. If no residue beneficiary is nominated or survives upon the death of the option beneficiary, the residue remaining, if any, shall be paid to the last surviving option beneficiary's estate.

67. Final Benefit Check

Benefits are payable through the month in which the last option beneficiary's death occurs. If the option beneficiary dies prior to receiving the last check, ATRS will pay the final check in the normal manner paid prior to death. If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check will be returned to the System.

78. Eligible Residue Beneficiaries

Any "person" as defined in this policy is eligible to be designated by the member to receive the residue, if any, payable upon the member's death including individuals, trusts, estates, corporations, and other legally recognized entities.

Amended: June 15, 2004
February 7, 2006
April 26, 2007
July 1, 2011 (Emergency)

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If an Option 1 retiree dies within one year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A (100% survivor annuity) at that time.

The election shall become effective the first day of the month following receipt of the election form by ATRS. If the spouse elects Option A, the residue, if any, will not be paid until the Option A beneficiary's death.

3. Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement

In order to be nominated as an Option A or B beneficiary, the person must be one of the following:

- A. The retiree's spouse (if the retiree has been married to the spouse for at least one (1) year prior to the first annuity payment being paid to the retiree);
- B. A dependent child (regardless of age) who has been ruled physically or mentally incapacitated by a court of competent jurisdiction.

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